

BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
RAYMOND H. AND KATHLEEN L. ROSS)

For Appellants: Clyde S. Munsell
Attorney At Law .
For Respondent: John A. Stilwell, Jr.
Counsel

O P I N I O N

This appeal is made pursuant to section 18593 of the Revenue and Taxation Code from the action of the Franchise Tax Board on the protest of Raymond H. and Kathleen L. Ross against a proposed assessment of additional personal income tax in the amount of \$5,573.92 for the year 1969.

Appeal of Raymond H. and Kathleen L. Ross

The sole issue to be decided is whether respondent's assessment, which was based on a federal audit report, is correct.

Appellants Raymond H. and Kathleen L. Ross, were residents of **Reno**, Nevada, and filed a **non-**resident California return for the year 1969. In 1973 respondent Franchise Tax Board received an internal revenue agent's report (RAR) which disclosed numerous changes to the taxable income as reported on appellants' 1969 federal return. As all of the federal adjustments were applicable for California purposes, respondent issued a notice of proposed assessment in which all such adjustments were applied, save the medical expense deduction. Respondent reduced the federal adjustment for medical expense deduction due to the difference in appellants' adjusted gross income for federal and state purposes.

Appellants protested the proposed assessment on the basis that they had appealed the federal adjustments. Under these circumstances respondent agreed to **withhold** further action on its proposed assessment pending the outcome of the federal proceedings.

On August 27, 1974, appellants' representative notified respondent that the federal audit had been concluded and suggested that respondent contact appellants directly for details of that audit. Respondent twice requested appellants to furnish such information; however, appellants failed to respond to **these requests**. Respondent therefore affirmed the proposed assessment. Appellants appealed.

Section 18451 of the Revenue and Taxation Code specifically provides that if federal adjustments are made to a taxpayer's federal tax return, the taxpayer must report such changes to the Franchise Tax Board and either concede the accuracy of the federal determination or state wherein it is erroneous.

In this case respondent has made clear to appellants, both by **way of** letters and by way of conferences, the basis for the proposed assessment and the need for appellants to present the report of the final federal audit along with substantiating evidence.

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Nevertheless, the only document which has been submitted by appellants is one indicating that some sort of closing agreement was entered into between the Internal Revenue Service and appellants. That document, however, provides no detail whatsoever regarding particular adjustments or readjustments to individual items noted on the RAR. Without such information, the original adjustments made on the RAR, and therefore respondent's proposed assessment which adopted such adjustments, cannot be shown to be incorrect.


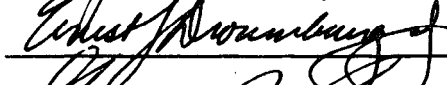


Under such circumstances, it must be concluded that appellants have failed to carry the burden of proving respondent's proposed assessment to be erroneous. Respondent's action in this matter must, therefore, be sustained.

O R D E R

Pursuant to the views expressed in the opinion of the board on file in this proceeding, and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, pursuant to section 18595 of the Revenue and Taxation Code, that the action of the Franchise Tax Board on the protest of Raymond H. and Kathleen L. Ross against a proposed assessment of additional personal income tax in the amount of \$5,573.92 for the year 1969, be and the same is hereby sustained.

Done at Sacramento, California, this 8th day of
January , 1980, by the State Board of Equalization.

	, Chairman
	, Member
	, Member.
	, Member
_____	Member